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SUBJECT: OCHA BRIEFS COUNCIL ON NGO EXPULSIONS FROM SUDAN

11. Summary: Libya began March 6 Security Council consultations on Darfur by noting that the African Union and Arab League would send a high-level delegation to brief the Council on regional organizations' unanimous opinion that the Council should defer prosecution of President Bashir by invoking Article 16 of the Rome statute (likely the week of March 16). OCHA briefed the Council on the consequences of Sudan's decision to expel key humanitarian NGOs and urged member states to lobby Khartoum for reversal of this decision. Council member positions on Article 16 deferral remain the same: China, Russia, Vietnam, Burkina Faso, Uganda and Libya favor deferral; the UK, France, Costa Rica, Croatia, Austria, Mexico, Japan and the U.S. oppose deferral. Turkey deferred expressing an opinion until the AU/Arab League briefing. The Council was not able to issue a consensus statement concerning the humanitarian crisis precipitated by the GOS expulsions. End Summary.

AU/Arab League Position on the ICC Indictment

12. Libyan CDA Dabbashi, as Security Council president, introduced the March 6 consultations on Darfur by expressing deep concern with the ICC indictment of President Bashir and said that a joint AU/Arab League delegation would travel to New York to request the Council to exercise Article 16 deferral of the prosecution under the Rome statute. Dabbashi said the Council had failed to consider the concerns of regional organizations but must now assume its responsibility to exercise Article 16 deferral. Dabbashi offered Burkinabi Ambassador Kafando the opportunity to make remarks on behalf of the African Union. Kafando stated that the Council must consider the AU request for Article 16 deferral and avoid further jeopardizing delicate peace negotiations in Darfur. Kafando urged the Council to accept the explicit request from the entire AU to brief the Council.

UK Ambassador Sawers said that the UK would welcome the opportunity to hear from the AU/Arab League delegation. French Ambassador Ripert observed that the Security Council will travel to Haiti next week and asked that the Council be notified as soon as possible about the timing of the AU/Arab League briefing. All Council members agreed to receive this briefing, but none noted a reversal in previously expressed opinions on deferral.

13. Mexican PR Heller reiterated that the ICC is an impartial and independent body; that there can be no lasting peace without justice; and that there are no grounds at this time that would justify Article 16 deferral. Austrian PR Mayr-Harting and Croatian PR Jurica agreed that Article 16 deferral is not warranted. Croatia said that the GOS linkage between NGO expulsions and the ICC decision was shocking. Costa Rica, the UK, France, Japan and the U.S. reiterated their opposition to Article 16 deferral. Countries opposed to deferral also deplored the GOS attempt to justify NGO expulsions by linking them to the ICC investigation.

14. China, Russia, Vietnam, Burkina Faso, Uganda, and Libya continued to argue in support of deferral. Turkey stated that it would elaborate its position on deferral during the

15. Assistant Secretary General for the UN Office for the Coordination of Humanitarian Affairs (OCHA) Catherine Bragg said that on March 4, Sudan's Humanitarian Aid Commission (HAC) revoked the registration of key NGOs providing humanitarian aid to over half the 4.7 million conflict-affected people in Darfur. Bragg noted that government statements, including President Bashir's own statement, linked the expulsion of NGOs to allegations that they had exceeded their mandates by cooperating with the International Criminal Court (ICC) investigation of Bashir. Bragg urged Council members to use their influence to persuade the Government of Sudan (GOS) to reverse its decision. Bragg argued that expulsion of the NGOs is not and should not be related to the ICC investigations.

16. Bragg provided additional details, noting that 13 international NGOs and three national NGOs had their registrations revoked, affecting 40 percent of the humanitarian workforce in Darfur. She said that 1.1 million people may not receive food aid; 1.5 million people will lose access to health care, and over one million people could soon lose access to potable water and sanitation due to the GOS decision. Bragg stressed the implications of this decision on security, noting that further displacement of refugees into Chad could aggravate tensions along the Chad-Sudan border. Bragg also said that this impact would be felt along the volatile North-South border, with the potential to weaken

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an already fragile Comprehensive Peace Agreement between the north and south.

17. Bragg noted that if the GOS did not reverse its decision, the United Nations would be unable to meet the gap in services created by the departure of these key NGOs. She stated that the expulsion would undermine the UN's operational capacity and characterized the GOS decision as the most serious set back since relief operations in Sudan -- the largest humanitarian relief operation in the world-- began.

P-3 Response

18. Ambassador DiCarlo expressed concern with the well-being of the citizens of Darfur in light of the expulsions and noted the potential for impact on aid to southern Sudan as well. She asked the Council to focus all its efforts on reversing the GOS decision. DiCarlo detailed U.S. efforts to reach out to GOS representatives in Khartoum, in Washington and in New York. DiCarlo also noted efforts of Secretary General Ban and the Secretariat to convince the GOS to reverse its decision. Despite these efforts, DiCarlo said that the GOS thus far had refused to listen. She urged countries with influence over GOS officials to intercede now.

DiCarlo also noted that, while the UN would try to fill the gap created by the NGO's departure, UN resources are already stretched to capacity. She asked Bragg to specify how the UN would prioritize limited resources and whether the UN would need to make an emergency appeal for additional resources. DiCarlo closed by stressing that the NGO expulsions and the ICC investigation were not logically connected and that nothing could justify the GOS' actions.

19. UK Ambassador Sawers reiterated that NGOs protect vulnerable populations and are not political organizations. He said that the 4.7 million Darfuris, 2.7 million of whom are in internally displaced persons camps, are receiving humanitarian aid due to GOS policies from 2003-04 that resulted in massive displacement of the population. Sawers argued that the GOS expulsions violated the 2007 Joint

Communique governing its relations with humanitarian organizations, which the GOS renewed in November 2008. Sawers also said that the GOS had violated its commitment in the February 18 goodwill agreement with the Justice and Equality Movement (JEM) to "guarantee the smooth and unobstructed flow of relief assistance to needy people without any obstacles or restraints." Sawers said that the GOS had not provided any evidence to support its assertion that the expelled NGOs had been involved in the ICC investigations. French Ambassador Ripert said that the GOS has an obligation to cooperate with the ICC. Ripert characterized the GOS decision as premeditated and agreed about the dangerous potential for spill over into southern Sudan and a negative impact on the Comprehensive Peace Agreement.

Other Members Respond

¶10. Russian DPR Dolgov stated that the unprecedented arrest warrant against a sitting head of state had negative implications for the situation in Darfur. Dolgov focused on the evidence of rebel groups' violations of humanitarian law and argued that the ICC should investigate these violations. He pointed out JEM's decision to withdraw from peace negotiations as a result of the ICC decision was evidence of the threat posed to the peace process by the Bashir indictment. Dolgov agreed that the GOS decision to revoke the licenses of key NGOs would affect humanitarian assistance but hoped that the UN could take some steps to fill the gap created by these expulsions. Dolgov also observed that many NGOs remain in Darfur and can assist in filling this gap.

¶11. Ugandan PR Rugunda argued that the expulsion of NGOs was directly linked to ICC action. Agreeing that members should ask the GOS to reverse its position, Rugunda also urged the international community to provide additional support to remaining NGOs. Rugunda noted that worse consequences than expulsion of NGOs could result from the ICC decision, stating that the Council should not divorce court proceedings from realities on the ground in Sudan. Turkish PR Ilkin expressed the hope that Khartoum would reconsider its decision and that there would be no impediment to UNAMID deployment, but urged the Council to prepare for a worse case scenario. Chinese PR Zhang stated that it would encourage the GOS to continue cooperating with humanitarian organizations but insisted that the decision to expel NGOs was connected to the ICC indictment of Bashir. Zhang also expressed hope that UNAMID deployment would not be affected and called on the Council to shoulder its responsibility to pursue Article 16 deferral.

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¶12. Libyan CDA Dabbashi regretted the ICC decision that had directly impacted humanitarian organizations but expressed understanding for the position taken by the GOS. Libya argued that it is natural for a country to defend its sovereignty and protect its President. Libya argued that some Council members have little respect for the AU and Arab League. Libya suggested that "the remaining 100 NGOs can carry on without the ten that were expelled."

Japan Proposes Press Statement

¶12. Japanese PR Takasu proposed that the Presidency orally brief the press on four elements: the Council's deep concern over the safety and security of humanitarian workers; confirmation of the importance of humanitarian assistance for the lives of the Darfuri people; urging the GOS and rebel groups to refrain from action that would worsen the humanitarian situation; and asking the GOS to reconsider its decision to revoke NGO licenses. While some delegations supported this statement -- Turkey, Austria, France, Mexico, and Croatia -- other delegations -- Burkina Faso and Libya -- were adamant that without reference to the ICC, they could

not agree to a Presidential statement.

OCHA Responds to Council Questions

¶13. Bragg responded to assertions that remaining NGOs could fill the gap created by the expulsion of key NGOs by noting that the NGOs expelled provide more than half of all assistance. She said that remaining NGOs do not have the capacity to fill the gap. She also said that UNAMID forces could not replace the 6,500 humanitarian workers lost by virtue of the expulsions. She also noted that while the UN has a business continuity plan, the UN had not envisioned the swiftness or vastness of the scale of NGO expulsions that had taken place over the last few days. In response to the U.S. question on priorities, Bragg noted that the UN indeed could not fill the gap created by NGO departures and would focus on priority areas where a number of relief sectors -- i.e. food, water, sanitation and health care -- would be affected, specifically the Zam Zam and Kalma IDP camps.
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